



# Town of Berwyn Heights

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## Minutes Worksession February 13, 2017

The meeting was called to order at 7:00 p.m. Present were Mayor Cheryl Jewitt, Mayor Pro Tem (MPT) Jodie Kulpa-Eddy and Councilmembers (CMs) Patricia Dennison, Christopher Rasmussen, and Gerald Shields. MPT Kulpa-Eddy arrived a late as she was attending a meeting on relocating the FBI headquarters. Also present were Town Administrator (TA) Jessica Cowles, Clerk Kerstin Harper, and Mike Attick.

### 1. **Announcements**

There were none.

### 2. **Minutes**

On a motion by CM Dennison and second by CM Rasmussen, the January 23 worksession minutes were approved 5 to 0.

### 3. **Department Reports/ Citizen Comments**

Mayor Jewitt reported that the Four Cities Coalition sent a letter to WMATA opposing the proposed closure of the B30 bus line serving the Baltimore Washington Airport. She and MPT Kulpa-Eddy attended an informative Prince George's County Municipal Association (PGCMA) legislative social in Bowie. Mayor Jewitt received a citizen comment about drivers running stop signs in Town. She extended condolences to the Gehrels family on the February 6 passing of Town resident Neil Gehrels, a distinguished astronomer and Chief of the NASA Goddard Astroparticle Physics Laboratory.

CM Rasmussen noted that the adoption of Ordinance 120 – Rental Housing was postponed at the last Town meeting because State law requires advertising for three weeks in a newspaper of general circulation when a fire code is adopted. He also noted that refuse is often set out at the curb in a haphazard way that violates Ordinance 117 – Refuse Collection: e.g., in bags or in damaged containers without lids. He proposed the Town revisit providing a standard container to all residents, and outfitting the Public Works trucks with lifts, which would make it easier for crewmen to collect refuse.

CM Rasmussen discussed the McDonalds site plan and announced an April 1<sup>st</sup> “UMD Good Neighbor Day,” which includes an invasive plant removal project at Lake Artemesia. Residents interested in participating can register online at [www.vpaf.umd.edu](http://www.vpaf.umd.edu).

MPT Kulpa-Eddy announced that Prince George's County received a grant that makes available free

and low cost spay and neuter services to low-income County residents from February 1 to December 1, 2017. She also reported on a meeting she attended on the relocation of the FBI headquarters to Greenbelt Station. Changes resulting from a transportation analysis include an increase in required parking spaces at the Greenbelt site from 3,600 to 6,000, and a dedicated left turn lane on 60<sup>th</sup> Avenue in Berwyn Heights. The impacts of the MARC commuter train and the Purple Line were not included in the transportation analysis. The date of the award announcement is expected to be at the end of March. The expected completion date of the project was postponed to 2025.

CM Shields announced upcoming community events. He reported that he continues to work on an MML Banner City accreditation and polling Town organizations about their operations and interaction with the Town. Mayor Jewitt announced that she attended the Recreation Council's Valentine's Party.

**Citizen comments:** MPT Kulpa-Eddy said she received two comments in support of continuing the "owner-plus-one" exemption in Ordinance 120 and CM Shields said he received one, as well.

#### **4. Action Items**

**Small cell facilities:** TA Cowles explained that the Four Cities Coalition at the January meeting heard concerns about wireless companies moving aggressively to obtain permits and erect small cell facilities in several Maryland counties and municipalities in the D.C. area. Many local governments across the country have joined together to engage a law firm in response to Federal Communications Commission (FCC) activities regarding small cell facilities. The law firm would also develop model language for regulating small cell facilities, which Berwyn Heights could adopt. TA Cowles recommended that Berwyn Heights join the legal coalition. The cost to Berwyn Heights would be \$1,000 and could be funded from the FY 2017 Administration budget.

MPT Kulpa-Eddy said that the Town already has an ordinance that regulates utilities' access to the public right-of-way with a permitting process. She understands wireless companies want to be designated a public utility to give them access to the public right-of-ways. An amendment to Ordinance 118 – Public Roads & Right-of-Ways could simply add them to the list of utilities that must apply for a permit. TA Cowles said it is recommended that municipalities adopt a separate ordinance setting standards for small cell facilities, specifying where and how they can be installed. MPT Kulpa-Eddy said that she is not opposed to adopting a model ordinance, but would suggest to quickly amend the existing Ordinance to have something in place to respond to possible permit applications for cellular infrastructure.

After further discussion, CM Dennison moved and MPT Kulpa-Eddy seconded to commit \$1,000 to join the small cell facilities legal coalition.

**County Executive listening session:** MPT Kulpa-Eddy explained that the PGCMA is hosting a listening session for municipalities with County Executive Baker on the County's FY 2018 budget. This would be an excellent opportunity to remind the County of a stormwater system feasibility study for Berwyn Heights that was originally funded in FY 2017, and get an update on its status. The feasibility study is the next step in addressing the inadequacy of Berwyn Heights' storm drains that came to light because of a flash flood following a heavy rain storm in June 2014. The County already commissioned an analysis of the Town's storm drain system and found that it requires rebuilding infrastructure in several key places.

The Council designated MPT Kulpa-Eddy to represent the Town at the County Executive's listening

session on February 21. MPT Kulpa-Eddy will provide the Council with talking points and seek the Council's input.

##### **5. Discussion Items**

***Berwyn Heights Day update:*** CM Rasmussen requested an update on Berwyn Heights Day plans because there has been a change in leadership and the Council has made it a priority in its strategic plan and appropriated additional money. Mayor Jewitt replied that she and MPT Kulpa-Eddy attended the last Recreation Council meeting, at which Berwyn Heights Day plans were discussed. This year's celebration will feature most of the traditional Berwyn Heights Day activities but there will be a few changes: A live band will not perform on Berwyn Heights Day but is scheduled to play on a different day in the summer. A bingo game may be organized with the help of the Fire Department and local sports team mascots may march in the parade. A three-legged race between the Town's departments is planned, as well as taking group photos of the Council and departments. Mayor Jewitt has offered to help with the planning but more volunteers are needed.

CM Rasmussen said the Town may need to take on some of the Recreation Council's responsibilities if there continues to be a shortage of volunteers. TA Cowles said that there are some dedicated volunteers working on Berwyn Heights Day, as well as other community events. Should there be a need, she would consider funding a stipend for a community volunteer to coordinate events, or ask staff to take on more responsibilities. Staff already support the Recreation Council with administrative tasks, event setup and cleanup.

MPT Kulpa-Eddy said this Berwyn Heights Day will be quite similar to past events but will be more condensed, starting around 9 a.m. and ending between 3 p.m. and 4 p.m. She made known her desire to see Berwyn Heights celebrate its 125<sup>th</sup> anniversary in 2021 with fireworks, and has begun researching what this would entail. The Council also discussed the desirability of continuing to subsidize the sale of beer by the Men's League on Berwyn Heights Day and providing some Town clubs the opportunity to fundraise, and certain vendors a venue to sell food. No decisions were made.

***Commercial vehicle parking:*** CM Rasmussen said that the Town and the County differ in their parking regulations with respect to commercial vehicles. The Town does not allow commercial vehicles to be parked on the street overnight, while the County does not allow them to be parked in driveways. He has observed a lot of large commercial vehicles being parked on Town streets and in driveways, many of which appear to violate parking regulations. He asked for an update on how the Town enforces parking regulations.

TA Cowles said that the Town enforces only Town parking regulations set forth in Ordinance 119 – Section 4, not County code. Ordinance 119 defines commercial vehicles as vehicles with commercial lettering, exceeding a gross weight of 7,000 lbs. or a capacity greater than 3/4-ton. The Ordinance prohibits on-street parking of commercial vehicles between 7:00 p.m. and 7:00 a.m. and on weekends. Berwyn Heights police enforce violations. Prince George's County does not enforce commercial vehicle violations in the Town.

MPT Kulpa-Eddy commented New Carrollton allows commercial and recreational vehicles to park on the street. This is a problem for maintenance crews and for visitors, who must thread their way past them. She would not want Berwyn Heights to go the way of New Carrollton. TA Cowles was asked to check with the Chief about giving an update on commercial vehicle enforcement at the next Town meeting.

**Strategic planning action items:** TA Cowles provided the Council with an updated strategic plan that adds goals and objectives to accomplish the strategic issues identified during the January 23 worksession. This includes a number of Requests for Proposals (RFPs) that will have to be drafted over FY 2017 and FY 2018. The strategic plan will be background material for the March 25 special budget workshop.

**Municipal authority on fencing:** MPT Kulpa-Eddy reported that at the January PGCMA meeting, municipalities were informed about state legislation of interest, including proposed municipal authority to regulate fences. Municipalities are encouraged to take a position on the legislation set forth in PG 418-17.

TA Cowles said the legislation would allow municipalities, in addition to counties, to set their own fencing standards regarding height and setbacks. If Berwyn Heights chose to create such an ordinance, it would have to establish a process to review permits for fences. As the Town does not have a planning department, the Council would need to consider standards and sit as an appellate board or establish a zoning board of appeals, in the event a proposed fence does not conform to current zoning standards. She recommended to wait and see if the legislation is adopted at the State level. The Council agreed.

The Council briefly discussed how voting at PGCMA meetings is handled. It was agreed to consult with the Town attorney about designating a Councilmember to vote on behalf of the Council.

MPT Kulpa-Eddy said a second bill was proposed for endorsement by PGCMA. It would allow the County to waive liens on vacant properties to enable a faster turnover and rehabilitation. Waiving such liens may include a charge the Town has levied on the property for performing abatements or for other reasons, but the legislation is not clear. The Council did not take a position on this legislation.

**Shade Tree Board:** CM Rasmussen asked to run an invitation to serve on a reconstituted Shade Tree Board again in the April Bulletin, since no letters of interest have yet been received. Further, it was agreed that CM Rasmussen send a direct email to invite those residents who had protested the removal of trees on Edmonston Road to consider applying for the Board.

**Ordinance 120 – public comments:** CM Rasmussen said that adoption of the amended Ordinance 120 – Rental Housing was postponed to the March Town meeting because State law requires advertising for three weeks in a newspaper of general circulation when a fire code is adopted. He recommended not re-opening discussion on any particulars of the Ordinance because he believes they were resolved at the last worksession. However, CM Shields may want to comment since he was not present at that worksession.

MPT Kulpa-Eddy said that *Section 2 – Definitions* needs to be reviewed for conformance with the revised Ordinance. A number of definitions are no longer needed because the standards to which they relate have been deleted and substituted by standards of the Prince George's County Housing Code adopted in the amended Ordinance 120. The Council proceeded to review the definitions.

Section 2 YY – Rental Unit: MPT Kulpa-Eddy said that the meaning of “renting” in the definition, as it stands, is not clear since it does not specify the intent is to apply this Ordinance to people who are carrying on a business of letting rental property. Thus, it may capture arrangements where home owners allow friends and acquaintances to stay in their house for a period of time, for which some kind of

compensation may be received, but not necessarily requested. These situations should not be subject to a license requirement. Therefore, the Ordinance should say somewhere that “renting” is a business activity where rooms are granted for use at a price.

CM Rasmussen said that the Town Attorney provided language in response to the Council’s request for clarification. The revised definition thus reads: a rental unit is... a habitable space let for occupancy from which the property owner receives a monetary payment *or any other consideration* from a tenant... *under a written or oral agreement*... He would add “requests or requires” to “receive” monetary compensation. TA Cowles said that “a written or oral agreement” implies a negotiation of terms whereby a person is granted rooms for occupancy, and thus a business intent. After extended deliberations, the Council settled on “expects monetary payment” to denote an intent to run a business.

MPT Kulpa-Eddy listed the definitions that should be deleted because they no longer refer to any provisions in the Ordinance. These include: basement, bedroom, exterior property, infestation, extermination, garbage, and plumbing. CM Rasmussen asked that a statement be added to the introduction of the definitions section noting that some definitions pertaining to rental licensing are now found in the International Property Code and other codes adopted in the amended Ordinance.

MPT Kulpa-Eddy said that the terms “tenant” and “occupant” are used interchangeably in the Ordinance, for example in Section 5 B and 7 F. She suggested that only one term be used throughout. TA Cowles said that the terms have slightly different meanings and are both needed. It was agreed to use both, including “tenant and occupant” where appropriate.

The Council further agreed to use the Town Attorney’s language for *Section 13 – Interpretation and Waiver*. Should there be a conflict in interpretation of codes, the more stringent version will prevail. If the stringent version is overly restrictive, the Council can waive it. In order to give rental home owners enough time to adjust to the new regulations, the effective date for the amended Ordinance was set for 60 days after the adoption, instead of the usual 20 days. The Council will review the revised version at the March 6 worksession.

Mike Attick, 62<sup>nd</sup> Avenue, suggested the Council spent too much time discussing and amending the Ordinance. The Council replied that a revision of the Ordinance was needed because some provisions no longer complied with State and federal regulations. Rewriting Ordinances is a proper use of the Council’s time and worth the effort to produce a better product.

### **Town Council Schedule**

The Council reviewed the calendar for the upcoming month. No changes were made.

***Senate Bill on Tax Overpayment (added item):*** TA Cowles said MML recommends that municipalities send a letter of support for Senate Bill 397 – Income Tax Overpayment – Forgiveness. A sample letter is provided. Upon the suggestion of Mayor Jewitt, the Council agreed to add a sentence stating it is the Town’s understanding that Comptroller Franchot supports forgiveness of the debt because the income tax overpayment was not a fault of the municipalities. TA Cowles was asked to finalize the letter for the Mayor’s signature.

The meeting was adjourned at 10:00 p.m.

Signed: *Kerstin Harper*